

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

CAROL BARNEY,

Plaintiff,

v.

Civ. No. 15-1025 GJF

CAROLYN W. COLVIN, Acting  
Commissioner of the Social Security  
Administration,

Defendant.

**ORDER FOR THE AWARD OF ATTORNEY FEES  
PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)**


THIS MATTER is before the Court on Plaintiff's "Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support" ("Motion") [ECF No. 28]. Having reviewed the record, noting the concurrence of the parties, and being otherwise fully advised, the Court finds the Motion to be well-taken and will GRANT it.

**IT IS THEREFORE ORDERED** that Plaintiff is awarded **\$5,544.80** in attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). *See Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010) (EAJA fees are paid to the prevailing party, not the attorney). Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. The parties further agree that the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. § 2412(c)(1) (2006).

**IT IS FURTHER ORDERED** that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund

the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS SO ORDERED.**



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THE HONORABLE GREGORY J. FOURATT  
UNITED STATES MAGISTRATE JUDGE